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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200786
Party	Plaintiff United Global Media Group, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85155593
Filed: October 19, 2010
Mark: BEAUTV
Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.,

Opposer,

v.

BONNIE TSENG,

Applicant.

Opposition No. 91200786

**OPPOSER'S MOTION TO COMPEL FULL RESPONSES TO INTERROGATORIES
AND REQUESTS FOR PRODUCTION, AND THE PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure and Trademark Board Manual of Procedure ("TBMP") §§411.01 and 411.02, Opposer United Global Media Group ("UGMG") respectfully moves for the Board to compel applicant Bonnie Tseng ("Applicant") to:

- (1) Respond fully and completely to UGMG's Interrogatories, and
- (2) To produce documents responsive to UGMG's Requests for Production.

Applicant has not produced any documents, and she has refused to provide complete responses to Interrogatories. Thus, a motion to compel is warranted.

I. BACKGROUND

UGMG commenced this proceeding by filing a notice of opposition against Applicant's application to register the mark BEAUTV (Serial No. 85/155,593) on July 20, 2011. Applicant Answered on October 4, 2011, denying that there is a likelihood of confusion, and asserting prior common law rights.

On November 11, 2011, UGMG served Applicant with written discovery, including Opposer's First Interrogatories to Applicant and Opposer's First Requests for the Production of Documents and Things (collectively "Discovery Requests"). *See* Silverstein Dec. ¶ 2. Applicant served her responses to these discovery requests on December 15, 2012. *See* Silverstein Dec. ¶ 4.¹

Applicant's discovery responses are wholly inadequate. UGMG has attempted to meet and confer with Applicant to discuss supplementing the responses. To that end, counsel for UGMG emailed Applicant on January 9, 2012, with a follow-up on January 13, 2012 when Applicant did not initially respond. Applicant responded on January 20, 2012, refusing to supplement her discovery responses, and refusing to provide any timeline for the production of the two categories of documents she agreed to produce.

It has become readily apparent from Applicant's conduct and communications that Applicant does not care to understand the function or import of the discovery process. Accordingly, UGMG has been left with little choice but to file this motion.

II. AN ORDER COMPELLING APPLICANT'S DISCOVERY RESPONSES IS APPROPRIATE

A. Applicant Improperly Objects to Relevant Interrogatories, and Where She Responds at All, the Responses Are Incomplete

In responding to validly served interrogatory requests, a party has a duty to provide a full and complete answers to all inquiries that fall within the liberal scope of discovery authorized by the Federal Rules. *See* TBMP § 405.04(b).

Applicant has refused to provide any information with respect to numerous interrogatories on the basis of the following objection: "Object as non-applicable and/or

¹ Applicant failed to restate UGMG discovery requests in her responses. Thus, for the convenience of the board, UGMG has assembled Exhibits E (Interrogatories) and F (Requests for Production) listing setting forth both the request and objection.

irrelevant.” *See* Ex. E, Int. Resp. Nos. 9, 12, 14–21, 24, 31, 36–38, 43, 44. Each of these interrogatories, however, are clearly relevant as they ask for information, for example, about Applicant’s first use (Int. 9), channels of distribution (Int. 14), purchasers (Int. 15), promotion and advertisements (Int. 18–21). None of Applicant’s objections have merit, and thus Applicant should be compelled to provide complete answers to these interrogatories.

Where Applicant does answer, the answers are incomplete and do not provide all the relevant information requested. *See* Ex. E, Int. Resp. Nos. 1–4, 6–8, 13, 22, 32, 33. For example, in Interrogatory 32, UGMG asks Applicant to identify all goods or services on which Applicant has a *bona fide* intent to use. Applicant, however, does not identify any actual good or services in her response. Thus, Applicant should be compelled to supplement its responses to provide complete answers to the Interrogatories.

Finally, confidentiality is not a basis to refuse to disclosure relevant information. *See* Ex. E, Int. Resp. 34. Discovery in this case is being conducted under the Board’s Standard Protective Order. Thus, Applicant’s concerns regarding confidentiality can be resolved with the proper designation of the response under the protective order.

B. Applicant Has Produce No Responsive Documents, and Thus Complete Production Must be Compelled

To date, Applicant has produced no documents in response to UGMG First Request for Production (“RFP”). UGMG has attempted to cooperate with Applicant to obtain the information it needs, but Applicant has refused to provide a time line for the production of responsive documents. Thus, the Board should compel Applicant to produce all responsive documents.

Judging from her responses, Applicant appears to misunderstand the purpose of Requests for Production. Rather than commit to produce documents, Applicant answers many of the

requests as if they were Interrogatories. As such, most of Applicant's objections completely miss the mark. *See* Ex. F, RFP Nos. 2–10, 13, 36. For example, in response to the RFP No. 3, in which UGMG requests all documents relating to the adoption of Applicant's mark. Applicant states, "[o]bject due to preexisting BEAUTY Trademark granted to same Applicant in 2002 with no opposition." *See* Ex. F, RFP No. 3. An abandoned trademark registration is not even relevant to the request, let alone an objection cognizable under the Federal Rules.

Applicant also improperly refused to produce documents responsive to numerous RFP claiming that they are "non-applicable and/or irrelevant." *See* Ex. F, RFPs 11, 12, 15, 16, 18, 24–35, 37. All of these requests, however, are clearly relevant and applicable, and many go key issues of the case. For example, RFP 11 requests information about Applicant's first use of the mark, which is highly relevant since Applicant alleges prior rights. Similarly, RFP 37 asks for "[d]ocuments sufficient to show all goods and services with which Applicant currently has actual use of Applicant's Designation." UGMG's requests are clearly applicable and relevant, and thus Applicant should be compelled to produce responsive documents.

In addition, Applicant's objections that certain RFPs request "excessive information" is also misplaced. *See* Ex. F, RFPs 14, 24, 32. RFP Nos. 14 and 24 ask for all documents relating to the use of the BEAUTV mark in Applicant's industry or media articles and press releases that mention Applicant's BEAUTV mark, and RFP 32 requests documents sufficient to identify customer to whom Applicant has sent promotional materials. UGMG highly doubts that the documents requested are so voluminous that production would be impractical.

Finally, as with the interrogatories, confidentiality is not a ground to withhold the production of documents. *See* Ex. F, RFP 19. If Applicant believes information to be sensitive,

it can be appropriately designated under the Standard Protective Order, to which both parties are bound.

III. CONCLUSION

For the foregoing reasons, UGMG respectfully requests that Applicant be compelled to produce complete responses.

TBMP § 523.02 CERTIFICATION

UGMG hereby certifies that it made a good faith effort to narrow or resolve the issues present in the motion with Applicant. The parties were unable to reach an agreement in the matter.

Respectfully submitted,

UNITED GLOBAL MEDIA GROUP, INC.

By its attorneys,

Dated: March 1, 2012

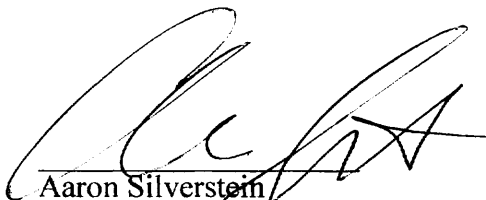


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CERTIFICATE OF SERVICE

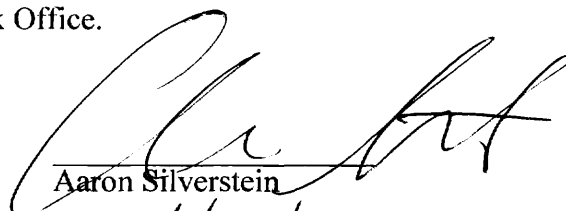
I hereby certify that a true and complete copy of the foregoing Motion, along with all exhibits thereto, has been served on the above date to the Applicant via email and first class mail, postage pre-paid to:

Bonnie Tseng
3020 LaVista Court
Decatur, GA 30033
United States
bonnietseng@mindspring.com


Aaron Silverstein

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via ESTTA on date shown below to the United States Patent and Trademark Office.


Aaron Silverstein
Date: March 1, 2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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UNITED GLOBAL MEDIA GROUP, INC.,

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v.

BONNIE TSENG,

Applicant.

Opposition No. 91200786

**DECLARATION OF AARON Y. SILVERSTEIN IN SUPPORT OF OPPOSER'S
MOTION TO COMPEL FULL RESPONSES TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION, AND THE PRODUCTION OF DOCUMENTS**

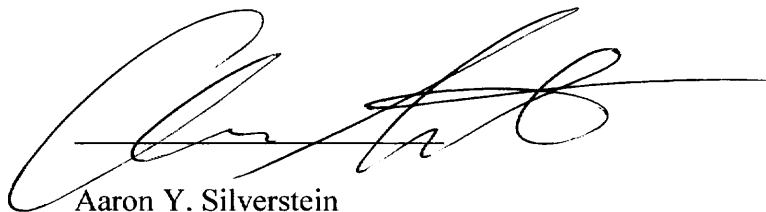
I, AARON Y. SILVERSTEIN, hereby declare as follows:

1. I am counsel for United Global Media Group, Inc. ("UGMG") in the present case.
2. On November 11, 2011, I caused to be served on applicant Bonnie Tseng ("Applicant") the following documents:
 - Opposer's Initial Disclosures
 - Opposer's First Set of Interrogatories
 - Opposer's First Request for Production of Documents & Things.
3. A true and correct copy of Opposer's First Set of Interrogatories is attached hereto as Exhibit A. A true and correct copy of Opposer's First Request for Production of Documents & Things is attached hereto as Exhibit B.
4. Applicant served responses to UGMG's discovery requests on December 15, 2011. Attached as Exhibit C is a true and correct copy of Applicant's Response to Opposer's

First Set of Interrogatories. Attached as Exhibit D is a true and correct copy of Applicant's Response to Opposer's First Request for Production of Documents and Things.

5. Applicant did not include the original requests in her response. Thus, for the convenience of the Board, UGMG has assembled documents showing both the request and the response for each of the discovery requests. Attached as Exhibit E is a true and correct copy of the assembled Interrogatories with Responses. Attached as Exhibit F is a true and correct copy of the assembled Requests for Production with Responses.

I declare under the penalty of perjury that the foregoing is true and correct. Signed this 1st day of March, 2012.



Aaron Y. Silverstein

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Declaration, along with all exhibits thereto, has been served on the above date to the Applicant via first class mail, postage pre-paid to:

Bonnie Tseng
3020 LaVista Court
Decatur, GA 30033
United States

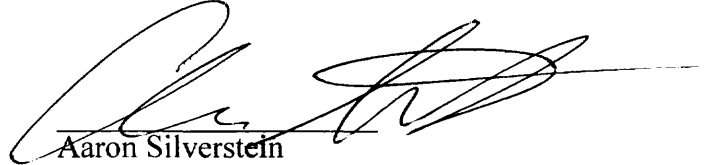

Aaron Silverstein

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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OPPOSER'S FIRST SET OF INTERROGATORIES

Opposer United Global Media Group, Inc. ("Opposer"), by and through its attorneys, requests that Applicant Bonnie Tseng ("Applicant") answer the following interrogatories within the time specified by the Federal Rules of Civil Procedure and subject to the following definitions and instructions.

DEFINITIONS

1. "Opposer" means United Global Media Group, Inc.
2. "Applicant" means Bonnie Tseng, including her employees, agents, representatives, predecessors or successors in interest, anyone acting on her behalf or at her request, including her attorneys, consultants, expert witnesses, or any other individuals employed in any way by Applicant, in connection with any matter concerning or alleged in Opposer's Notice of Opposition, and Applicant's Answer. This definition is not intended to impose discovery obligations beyond those authorized by the Federal Rules of Civil Procedure.

3. The pronouns “you,” “your,” or “yours” as used herein shall be synonymous with the term “Applicant.”

4. The terms “confusion” and “likelihood of confusion,” in addition to their usual and customary meaning, shall have the meanings ascribed to them by the Trademark Act, Section 2(d), 15 U.S.C. § 1052(d).

5. The terms “relating to,” “relate to,” or “relates to” mean evidencing, constituting, referring to, comprising, illustrating, recording, memorializing, concerning, or discussing.

6. The phrase “use in commerce” incorporates the definition set forth in 15 U.S.C. § 1127.

7. “Applicant’s Designation” means Applicant’s BEAUTV designation which is the subject of U.S. Trademark Application Serial No. 85155593; the application that is the subject of Opposer’s Notice of Opposition.

8. The term “Opposer’s Marks” means, individually and collectively, all marks upon which Opposer bases its claims in the Notice of Opposition, including without limitation the marks that are the subject of U.S. Trademark Registration Nos. 3688141, 3086867, 3451561, 3741286, and 3936977; and U.S. Trademark Application Serial Nos. 85289521, and 85045748.

9. The term “documents” shall mean both “documents” and “things,” as those terms are defined in Federal Rule of Civil Procedure 34, and includes any and all written, recorded, printed, or graphic matter, however produced or reproduced, of any kind and description, including but not limited to communications, correspondence, letters, notes, press releases, interoffice and intraoffice communications, telephone calls, emails, instant messages, electronic chat logs, memoranda of meetings, reports, directives, inter-company communications, diaries, logs, summaries, contracts, licenses, ledgers, books of account, vouchers, checks, invoices,

charge slips, receipts, freight bills, working papers, drawings, sketches, photographs, models, and writings of every kind or description, tape recordings, computer printouts, magnetic cards, microfilm, microfiches, data, computer files, or other information stored electronically or mechanically or by any other means, including both originals and copies. A draft or non-identical copy is a separate document within the meaning of this term.

10. The term “communication” means any document or tangible thing, correspondence, oral statement, meeting or conference, formal or informal, at any time or place and under any circumstance whatsoever, whereby information of any nature was stated, written, disclosed, transferred, exchanged, recorded, or in any manner transmitted or transferred.

11. The terms “bearing” and “under” mean bearing, containing, reflecting, or used on or in connection with.

12. The term “all” as used herein shall also mean “any and all.”

13. The terms “and” and “or” as used herein shall be construed conjunctively or disjunctively to bring within the scope of these requests any and all information which might otherwise be construed as outside their scope.

14. The terms “person” or “persons” as used herein shall mean any legal entity including natural persons, corporations, partnerships, estates, or any other kind of legal entity.

15. The term “request” means requests, requests for production, requests for admissions, and interrogatories.

16. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The use of the masculine form of a pronoun also includes within its meaning the feminine form of the pronoun

so used, and vice versa; and the use of any tense of any verb also includes within its meaning all other tenses of the verb so used.

17. The term “identify” as used herein means:

- a. in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last known such information;
- b. in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Applicant’s response; and
- c. in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender; (ii) its general type (e.g., letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any; (iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

18. The term “state the basis” as used herein means:

- a. identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of a party’s information regarding the alleged facts or legal conclusions referred to by the interrogatory;
- b. identify each and every communication which forms any part of the source of the party’s information regarding the alleged facts or legal conclusions referred to by the interrogatory;
- c. state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place, and identifying the persons involved) which form any part of the party’s information regarding the alleged facts or legal conclusions referred to in the interrogatory; and
- d. state separately any other fact which forms the basis of the party’s information regarding the alleged facts or conclusions referred to in the interrogatory.

INSTRUCTIONS

1. With respect to each request, Applicant must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. If an objection is raised, all grounds for the objection must be stated with specificity.
2. The party upon whom these interrogatories have been served shall serve a copy of the responses, and objections if any, within 30 days after service of such interrogatories.
3. These discovery requests seek responses as of the date on which they are

served. However, Applicant's duty to respond to the requests is continuing such that Opposer must timely supplement its responses by supplying later-acquired information or materials as required by Federal Rule of Civil Procedure 26.

4. Opposer serves these requests for purposes of discovery as contemplated under the Federal Rules of Civil Procedure, and Applicant (a) reserves all objections to the introduction of evidence on subjects covered by these discovery requests and (b) does not admit the relevance or materiality of any of the matters covered by these requests.

5. If Applicant withholds information otherwise responsive to a request by claiming that it is privileged or subject to work product protection as trial preparation material or otherwise, Applicant must make the claim expressly. Applicant must also describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing the privileged or protected information itself, will enable other parties to assess the applicability of your asserted privilege or protection.

6. Electronically stored documents shall be produced in searchable Adobe PDF format created directly from the native electronic document.

7. Paper documents shall be produced as multi-page, searchable Adobe PDF files.

8. Applicant shall base its responses to these requests on its use of Applicant's Designation in the United States.

INTERROGATORIES

Interrogatory No. 1.

Identify each person with knowledge of the facts set forth in the Opposition and Applicant's Answer, or with knowledge of any facts pertinent to this action, and state the facts or subject matter of each such person's knowledge.

Interrogatory No. 2.

Identify and describe each product sold, and each service rendered, by Applicant under Applicant's Designation.

Interrogatory No. 3.

State the exact date(s) on which Applicant will rely as to when use of Applicant's Designation commenced in connection with the sale or distribution of each item of goods and each service specified in answer to Interrogatory No. 2.

Interrogatory No. 4.

State the date on which Applicant first used Applicant's Designation in commerce for each good and service stated in answer to Interrogatory No. 2.

Interrogatory No. 5.

State the basis for the dates identified in answer to Interrogatory Nos. 3 and 4.

Interrogatory No. 6.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish Applicant's Designation was in use in connection with providing information about beauty in commerce on October 19, 2010.

Interrogatory No. 7.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish Applicant's Designation was in use in connection with providing information about beauty in commerce on January 1, 1999.

Interrogatory No. 8.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish the date(s) specified in answer to Interrogatory Nos. 3 and

4.

Interrogatory No. 9.

With respect to the first use(s) of Applicant's Designation in connection with the sale, distribution, or rendering of each item of goods or services identified in Interrogatory No. 2, state:

- (a) The manner in which Applicant's Designation was used, e.g., by affixation to containers, or labels, etc.;
- (b) If Applicant's Designation was printed on containers for the product or on labels, the name and address of the person(s) or organization which printed the term;
- (c) Whether the product or service was sold or rendered;
- (d) Whether the product or service was distributed free of charge;
- (e) The name and address of the person(s) or organization to whom the product or service was sold, distributed, or rendered;
- (f) Whether Applicant itself manufactured each of the items sold or distributed under Applicant's Designation;
- (g) Whether the sale, distribution, or rendering of each item of goods or services under Applicant's Designation has been continuous from the date specified in Interrogatory Nos. 3 and 4 to the present;
- (h) If the answer to Interrogatory 9(g) is in the affirmative, whether the circumstances described in answer to Interrogatories 9(a), 9(b), 9(c), 9(d), 9(f) prevailed throughout the

period identified in Interrogatory 9(g);

(i) If the circumstances described in answer to Interrogatories 9(a), 9(b), 9(c), 9(d), and 9(f) did not prevail throughout the period identified in Interrogatory 9(g), state how they changed, providing specific dates and names wherever requested; and

(j) If the answer to Interrogatory 9(g) is in the negative, state the periods of time during which Applicant's Designation was not used by Applicant in connection with the sale, distribution, or rendering of any of the items of goods or services.

Interrogatory No. 10.

State why Applicant selected Applicant's Designation as a designation for each item of goods or category of services specified in application Serial No. 85155593, and the circumstances by which Applicant selected such designation.

Interrogatory No. 11.

Identify by name, address, and firm or corporate affiliation the person(s) who was primarily responsible for selecting Applicant's Designation as a designation.

Interrogatory No. 12.

Identify all documents, including but not limited to search reports, market surveys, interoffice memoranda, relating to the adoption of Applicant's Designation as a designation for each item of goods or category of services specified in Applicant's answer to Interrogatory No. 2.

Interrogatory No. 13.

Identify all channels of trade through which Applicant sells goods or render services bearing Applicant's Designation.

Interrogatory No. 14.

Identify and describe the channels of distribution in the United States of each item of goods and services distributed, sold, or rendered under Applicant's Designation.

Interrogatory No. 15.

Identify all purchasers by class (e.g. retailers, general public) of each item of goods and service distributed, sold, or rendered under Applicant's Designation.

Interrogatory No. 16.

Identify all businesses or individuals that have purchased goods sold or services rendered in connection with Applicant's Designation.

Interrogatory No. 17.

List all geographical areas by city and state in which Applicant sells each item of goods or renders services under Applicant's Designation.

Interrogatory No. 18.

List all radio and/or TV stations in the United States where Applicant has advertised each good or service rendered in connection with Applicant's Designation and the dates thereof.

Interrogatory No. 19.

Identify all media outlets, including but not limited to newspapers, magazines, trade journals, radio or television stations, and websites, through which Applicant has advertised each good or service offered in connection with Applicant's Designation and the publication dates thereof.

Interrogatory No. 20.

State the amount expended by year in the United States in the advertisement of each item or category of goods or services used in connection with Application Designation.

Interrogatory No. 21.

Identify by name and address all person(s) or organization(s) who have been responsible for advertising the goods sold or services rendered under Applicant's Designation.

Interrogatory No. 22.

State the date on which Applicant first advertised any goods or services under Applicant's Designation and identify such goods or services.

Interrogatory No. 23.

State whether Applicant's Designation has ever been used in connection with television and radio production and broadcasting, including whether Applicant has ever used or printed the designation, or authorized the use or printing of the designation via the internet.

Interrogatory No. 24.

For each calendar year since commencement of use of Applicant's Designation, state the amount of sales by state by Applicant in the United States of each item of goods or services identified in response to Interrogatory No. 2.

Interrogatory No. 25.

Identify each person or company who has ever been responsible for bookkeeping or accounting with respect to all goods sold or services rendered under Applicant's Designation.

Interrogatory No. 26.

Describe all instances of actual confusion known to Applicant between the source of products or services sold or rendered under Applicant's Designation and the source of goods sold or services provided under any other trademark, including without limitation Opposer's Marks.

Interrogatory No. 27.

Identify every person who conducted any searches to determine whether Applicant's Designation was available for use or registration.

Interrogatory No. 28.

Describe any searches that Applicant conducted to determine whether Applicant's Designation was available to use or registration prior to or after commencing use of Applicant's Designation.

Interrogatory No. 29.

Describe the circumstances surrounding when Applicant's first become aware of Opposer's Marks.

Interrogatory No. 30.

Identify everyone who has a license to use Applicant's Designation.

Interrogatory No. 31.

Explain Applicant's order processing, fulfillment, and payment process for each of Applicant's channels of trade.

Interrogatory No. 32.

Identify all goods or services on which Applicant has a *bona fide* intent to use Applicant's Designation in the future.

Interrogatory No. 33.

State all facts that support Applicant's contention that Applicant has a *bona fide* intent to use Applicant's Designation on every good or service identified in answer to the preceding interrogatory.

Interrogatory No. 34.

Describe Applicant's plans to expand the sale of goods, or rendering of services, under Applicant's Designation.

Interrogatory No. 35.

Identify every internet website through which Applicant has marketed goods or services under Applicant's Designation.

Interrogatory No. 36.

For each website identified in response to Interrogatory No. 29, state the total number of unique visitors, by state, for each year since Applicant commenced use of Applicant's Designation.

Interrogatory No. 37.

Identify every wholesaler and retail store through which Applicant has sold goods or offered services in connection with Applicant's Designation.

Interrogatory No. 38.

Identify every instance in which Applicant's Designation has been mentioned in any publication.

Interrogatory No. 39.

Identify everyone with whom you have discussed the dispute underlying this proceeding.

Interrogatory No. 40.

State the basis for Applicant's defense that the Opposer's Marks fail to pre-date the application filing of Applicant's Designation.

Interrogatory No. 41.

State the basis for Applicant's defense that use of the Opposer's Marks fail to pre-date the use of Applicant's Designation.

Interrogatory No. 42.

If Applicant has obtained any statements or opinions regarding any of the issues

in this proceeding, identify the person who made each statement or opinion, provide the date Applicant received each statement or opinion, state whether it was oral or in writing, and state the general topic of the statement or opinion.

Interrogatory No. 43.

Identify any and all documents responsive to the foregoing interrogatories which are lost and identify the date(s) the loss was first discovered, the person(s) who first discovered the loss and the person(s) most knowledgeable about the contents of such lost documents.

Interrogatory No. 44.

How many hours per month does Applicant spend running the business of selling goods or rendering services bearing Applicant's Designation?

Interrogatory No. 45.

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state specifically, with reference to interrogatory numbers, the area of participation of each such person.

Dated: November 11, 2011

UNITED GLOBAL MEDIA GROUP, INC.

By its attorneys,



Aaron Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913
978-463-9130 (direct)
asilverstein@massiplaw.com

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2011, a true and complete copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served by email, by prior agreement of the parties, on Applicant:

Bonnie Tseng
3020 Lavista Court
Decatur, GA 30033
bonnietseng@mindspring.com



Aaron Silverstein

EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/155593
Filed: October 19, 2010
Mark: BEAUTV
Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.,

Opposer,

v.

BONNIE TSENG,

Applicant.

Opposition No. 91200786

**OPPOSER'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS**

Opposer United Global Media Group, Inc. ("Opposer"), by and through its attorneys, requests that Applicant Bonnie Tseng ("Applicant"), produce for inspection and copying the following documents and things. Such documents and things shall be produced for inspection and copying at the offices of Saunders & Silverstein LLP, 14 Cedar Street, Suite 224, Amesbury, MA 01913-1831, within the time period provided in the Federal Rules or at such other time and place mutually agreed by the parties.

These Requests are intended to cover all documents and things in the possession of Applicant, or subject to her custody or control, including those in the possession of Applicant's subsidiaries, predecessors, agents and licensees, whether such documents are located in any of Applicant's offices or office maintained by Applicant, her subsidiaries, agents, attorneys, investigators, predecessors, or licensees.

DEFINITIONS

1. "Opposer" means United Global Media Group, Inc.

2. “Applicant” means Bonnie Tseng, including her employees, agents, representatives, predecessors or successors in interest, anyone acting on her behalf or at her request, including her attorneys, consultants, expert witnesses, or any other individuals employed in any way by Applicant, in connection with any matter concerning or alleged in Opposer’s Notice of Opposition, and Applicant’s Answer. This definition is not intended to impose discovery obligations beyond those authorized by the Federal Rules of Civil Procedure.

3. The pronouns “you,” “your,” or “yours” as used herein shall be synonymous with the term “Applicant.”

4. The terms “confusion” and “likelihood of confusion,” in addition to their usual and customary meaning, shall have the meanings ascribed to them by the Trademark Act, Section 2(d), 15 U.S.C. § 1052(d).

5. The terms “relating to,” “relate to,” or “relates to” mean evidencing, constituting, referring to, comprising, illustrating, recording, memorializing, concerning, or discussing.

6. The phrase “use in commerce” incorporates the definition set forth in 15 U.S.C. § 1127.

7. “Applicant’s Designation” means Applicant’s BEAUTV designation which is the subject of U.S. Trademark Application Serial No. 85155593; the application that is the subject of Opposer’s Notice of Opposition.

8. The term “Opposer’s Marks” means, individually and collectively, all marks upon which Opposer bases its claims in the Notice of Opposition, including without limitation the marks that are the subject of U.S. Trademark Registration Nos. 3688141, 3086867, 3451561, 3741286, and 3936977; and U.S. Trademark Application Serial Nos. 85289521, and 85045748.

9. The term “documents” shall mean both “documents” and “things,” as those terms are defined in Federal Rule of Civil Procedure 34, and includes any and all written, recorded, printed, or graphic matter, however produced or reproduced, of any kind and description, including but not limited to communications, correspondence, letters, notes, press releases, interoffice and intraoffice communications, telephone calls, emails, instant messages, electronic chat logs, memoranda of meetings, reports, directives, inter-company communications, diaries, logs, summaries, contracts, licenses, ledgers, books of account, vouchers, checks, invoices, charge slips, receipts, freight bills, working papers, drawings, sketches, photographs, models, and writings of every kind or description, tape recordings, computer printouts, magnetic cards, microfilm, microfiches, data, computer files, or other information stored electronically or mechanically or by any other means, including both originals and copies. A draft or non-identical copy is a separate document within the meaning of this term.

10. The term “communication” means any document or tangible thing, correspondence, oral statement, meeting or conference, formal or informal, at any time or place and under any circumstance whatsoever, whereby information of any nature was stated, written, disclosed, transferred, exchanged, recorded, or in any manner transmitted or transferred.

11. The terms “bearing” and “under” mean bearing, containing, reflecting, or used on or in connection with.

12. The phrase “documents sufficient to show” shall mean enough documents to adequately, accurately, and completely address the subject matter of the request.

13. The term “all” as used herein shall also mean “any and all.”

14. The terms “and” and “or” as used herein shall be construed conjunctively or disjunctively to bring within the scope of these requests any and all information which might otherwise be construed as outside their scope.

15. The terms “person” or “persons” as used herein shall mean any legal entity including natural persons, corporations, partnerships, estates, or any other kind of legal entity.

16. The term “request” means requests, requests for production, requests for admissions, and interrogatories.

17. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The use of the masculine form of a pronoun also includes within its meaning the feminine form of the pronoun so used, and vice versa; and the use of any tense of any verb also includes within its meaning all other tenses of the verb so used.

INSTRUCTIONS

1. If any document is withheld under a claim of attorney-client privilege, the attorney work-product doctrine, or any other privilege, provide the following information:

(a) identifying information for each document including: the date of the document (as it appears on the document; or if no date appears thereon, so state and give the date or approximate date on which the document was prepared), number of pages, the type of information it contains (e.g., text, graphs, statistics), the title of the document, the type of document (e.g., memorandum, letter, brief, transcript, report, drawing), the author(s), the addressee(s), and the person(s) to whom the document or a copy thereof was sent. In addition to providing these names, identify the positions or titles of all persons mentioned in the document whether or not they are attorney(s); and

(b) a specification of which privilege is claimed, and, where more than one privilege is asserted for a document, the portions of that document to which each specified privilege applies.

2. The following are continuing requests, so as to require further and supplemental production promptly if Applicant receives, locates, or generates additional documents called for herein between the time of original production and the entry of judgment in this proceeding.

3. Applicant shall produce responsive documents within its possession, custody, or control and within the possession, custody, or control of its agents, attorneys or representatives.

4. If a document requested was, but no longer is, in the possession, custody, or control of Applicant, explain whether the document is missing or lost, has been destroyed, has been transferred to another person, or has been disposed of in some other manner. Also, explain the manner of such disposition, give the date or approximate date of such disposition, and provide the name and last known residence and business address of each person with knowledge of the circumstances surrounding such disposition.

5. Electronically stored documents shall be produced in searchable Adobe PDF format created directly from the native electronic document.

6. Paper documents shall be produced as multi-page, searchable Adobe PDF files.

7. Pursuant to Rule 34 of the Federal Rules of Civil Procedure, all documents produced for inspection shall be produced as they are kept in the usual course of business, and each document so produce shall be organized in a manner that clearly corresponds to the Request set forth herein.

8. Applicant shall base its responses to these requests on its use of Applicant's Designation in the United States.

DOCUMENTS REQUESTED

Request No. 1.

All documents that Applicant was required to identify in response to Opposer's First Set of Interrogatories to Applicant, or from which information was obtained in preparing the responses to the First Set of Interrogatories.

Request No. 2.

All documents relating to the date(s) and manner in which Applicant first learned of Opposer's Marks and Opposer's use of Opposer's Marks.

Request No. 3.

All documents relating to the selection, availability, adoption, creation, design, proposal to use, intent to use, attempt to register, or registration of Applicant's Designation, including without limitation, any minutes or notes from any meetings in which such topics were discussed.

Request No. 4.

All documents or other material relating to the use of Applicant's Designation in connection with providing information about beauty in commerce on October 19, 2010.

Request No. 5.

All documents or other materials relating to the use of the Applicant's Designation in connection with providing information about beauty in commerce on January 1, 1999.

Request No. 6.

All documents relating to any search or evaluation of any records conducted by or on behalf of Applicant to determine whether other persons had used or sought registration of any

word or phrase similar to Applicant's Designation, or whether Applicant's use of Applicant's Designation would conflict with the rights of any person.

Request No. 7.

Representative samples of the products sold, or services rendered, in connection with Applicant's Designation, including evidence of the dates of such samples.

Request No. 8.

All documents or other materials on which Applicant's Designation has been or is intended to be displayed, including without limitation, sample products, packaging, cartons, labels, product merchandizing, web pages, advertisements, brochures, sales literature, signs, handbills, stationery, business cards, decals, badges, catalogs, computer screens, videos, or other materials.

Request No. 9.

All documents relating to the creation, design, development, printing or manufacture of any materials on which Applicant's Designation has ever been or is intended to be displayed, including, without limitation, any correspondence, purchase orders, records of payment or invoices sent to or received from any person involved in such creation, design, development, or manufacture.

Request No. 10.

Representative samples of documents or other materials which identify, explain, or describe each of the products or services ever offered, rendered, or sold or intended for sale under Applicant's Designation.

Request No. 11.

All documents relating to the date and manner in which Applicant's Designation was

first used in connection with the sale of each type of product or service offered for sale by Applicant.

Request No. 12.

All sales reports, financial statements, or other documents relating to the revenues Applicant has derived from the sale of each product, or rendering of each service, offered under Applicant's Designation.

Request No. 13.

All documents relating to the nature and amount of any and all advertising, development, or promotional expenditures incurred in connection with each product or service offered or planned to be offered under Applicant's Designation.

Request No. 14.

All documents relating to any use of Applicant's Designation in the field of providing information about beauty.

Request No. 15.

Documents sufficient to show Applicant's total annual revenue from the sale of goods bearing Applicant's Designation, or services rendered under Applicant's Designation, for each year the designation has been in use.

Request No. 16.

Documents sufficient to show Applicant's total annual advertising and marketing expenditures in connection with goods bearing Applicants Designation, or services rendered under Applicant's Designation, for each year in which the designation has been in use.

Request No. 17.

All documents relating to Applicant's Designation that were sent to or received from

any advertising agency, public relations or media firm, or design firm.

Request No. 18.

Representative samples of all advertisements or promotional materials relating to Applicant's Designation.

Request No. 19.

All documents relating to marketing plans, media plans, business plans or other strategic planning documents relating to Applicant's Designation, or products or services offered, sold, rendered, or intended for sale under Applicant's Designation.

Request No. 20.

All documents relating to any meetings, correspondence, telephone calls, electronic communications, or other communications between Applicant and Opposer.

Request No. 21.

All documents relating to Applicant's Designation that Applicant has filed with or received from any federal, state or local governmental office or regulatory agency, including without limitation, all documents filed or received in connection with any application to register, or any sale, purchase, assignment, or other conveyance of Applicant's Designation.

Request No. 22.

All documents relating to any third party use, registration or application to register Applicant's Designation, Opposer's Marks, or any trademark which includes the term BEAUTV, or any similar word or phrase, in any language.

Request No. 23.

All documents relating to any objections made or considered by Applicant concerning use or registration of any mark containing Applicant's Designation, or any similar

word or phrase, by any third party.

Request No. 24.

All documents relating to any press releases, newspaper articles, blogs, website, or other publications which mention Applicant's Designation or any of the products or services sold or offered under Applicant's Designation.

Request No. 25.

All documents relating to the target audience for all advertisements or marketing materials containing Applicant's Designation.

Request No. 26.

All documents relating to the classes or types of purchasers to whom products have been sold, or services have been rendered, or are planned to be sold or rendered, under Applicant's Designation.

Request No. 27.

All documents relating to the methods of sale or channels of trade or distribution, through which products or services have been sold or offered, or are planned to be sold or offered, under Applicant's Designation.

Request No. 28.

All documents relating to any survey, poll, or other research regarding Applicant's Designation, or the products or services offered, or planned to be offered, under Applicant's Designation.

Request No. 29.

All documents relating to the commercial impression created by Applicant's Designation.

Request No. 30.

All documents relating to any communications between Applicant and any other person regarding Applicant's Designation, or this dispute.

Request No. 31.

Copies of all licenses, assignments, distributorship, franchise, or other agreements related to Applicant's Designation.

Request No. 32.

Documents sufficient to identify all prospective customers of products or services offered under Applicant's Designation to whom promotional materials have been sent, including the addresses of all such persons.

Request No. 33.

All documents relating to the date and manner in which Applicant's Designation was last used in connection with the sale of each type of product, or the rendering of each type of service, offered for sale.

Request No. 34.

All documents referring to any domain names ever owned by Applicant that contain the term BEAUTV, the word BEAUTY, or variations thereof and/or are used or intended to be used in connection with the sale or advertisement of products or services under Applicant's Designation, including without limitation all documents referring to such domain names.

Request No. 35.

All documents relating to the prosecution of U.S. Trademark Application Serial No. 85155593.

Request No. 36.

All documents relating to the selection of services set forth in U.S. Trademark
Application Serial No. 85155593.

Request No. 37.

Documents sufficient to show all goods and services with which Applicant currently
has actual use of Applicant's Designation.

Dated: November 11, 2011

UNITED GLOBAL MEDIA GROUP, INC.

By its attorneys,



Aaron Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913
978-463-9130 (direct)
asilverstein@massiplaw.com

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2011, a true and complete copy of the foregoing OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS was served by email, by prior mutual agreement of the parties, on Applicant:

Bonnie Tseng
3020 Lavista Court
Decatur, GA 30033
bonnietseng@mindspring.com



Aaron Silverstein

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85155593

Filed: October 19, 2010

Mark: BEAUTV

Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.

Opposer,

v.

BONNIE TSENG, BEAUTV, INC.

Applicant

Opposition No. 91200786

APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATIONS

Interrogatory No. 1

Bonnie Tseng is the inventor of the BEAUTV designation and person most knowledgeable regarding BEAUTV and BEAUTV, INC.

Interrogatory No. 2

Products and services have not been sold.

Interrogatory No. 3

Initial Trademark was granted in 1999.

Interrogatory No. 4

Applicant first used designation for specific communications in 1999.

Interrogatory No. 5

Applicant began providing information and expertise about beauty in 1996 and prior as a beauty expert, and invented BEAUTV designation and associated web site and e-mail as a specific identity to publish and promote original works of a specific style, and provide expertise and gather information in various formats (original imagery, person to person interaction, verbal advice on beauty products) pertaining to the subject of beauty.

Interrogatory No. 6

Object on the basis of preexisting trademark from 1999. Web site and e-mail service were established and consistently available to public since 1999 with no opposition from any party including Opposer. Invoices for all related internet services as well as business incorporation registry in the state of Georgia serve to verify continuous and consistent service availability to the public from at least 1999 to present.

Interrogatory No. 7

Press releases from the beauty industry were requested for subsequent writings and publishing to BEAUTV web site.

Interrogatory No. 8

Object on the basis of preexisting trademark from 1999. Corporate identity, web site and e-mail service were established and consistently available to public since 1999 and prior with no opposition from any party including Opposer. Invoices or registration confirmations for related internet services serve to verify continuous and consistent service from at least 1999 to present.

Interrogatory No. 9

- a) BEAUTV has been used consistently since 1999 as both a business corporate identity for BEAUTV, INC. and associated internet identity BEAUTV.COM for the purpose of providing information about beauty.
- b) Object as non-applicable and/or irrelevant.
- c) Object as non-applicable and/or irrelevant.
- d) Object as non-applicable and/or irrelevant.
- e) Object as non-applicable and/or irrelevant.
- f) Object as non-applicable and/or irrelevant.
- g) Object as non-applicable and/or irrelevant.
- h) Object as non-applicable and/or irrelevant.
- i) Object as non-applicable and/or irrelevant.
- j) Object as non-applicable and/or irrelevant.

Interrogatory No. 10

The BEAUTV designation was invented prior to 1999 specifically for use as the business name and corporate identity, not limited to internet identity, for BEAUTV, Inc., a provider of beauty related information.

Interrogatory No. 11

Bonnie Tseng created and registered the word BEAUTV as the designation for BEAUTV, Inc.

Interrogatory No. 12

Object as non-applicable and/or irrelevant.

Interrogatory No. 13

BEAUTV is the designation associated with the web site and e-mail as well as the specific corporate identity for BEAUTV, Inc., which publishes and promotes original works and provides and gathers

information in various formats (original imagery, person to person interaction, verbal advice on beauty products) pertaining to the subject of beauty.

Interrogatory No. 14

Object as non-applicable and/or irrelevant.

Interrogatory No. 15

Object as non-applicable and/or irrelevant.

Interrogatory No. 16

Object as non-applicable and/or irrelevant.

Interrogatory No. 17

Object as non-applicable and/or irrelevant.

Interrogatory No. 18

Object as non-applicable and/or irrelevant.

Interrogatory No. 19

Object as non-applicable and/or irrelevant.

Interrogatory No. 20

Object as non-applicable and/or irrelevant.

Interrogatory No. 21

Object as non-applicable and/or irrelevant.

Interrogatory No. 22

Web site BEAUTV.COM was established in 1999.

Interrogatory No. 23

To date, BEAUTV designation has not been used in connection with television and radio production and broadcasting. BEAUTV designation has been used since 1999 on the internet, specifically through the BEAUTV web site.

Interrogatory No. 24

Object as non-applicable and/or irrelevant.

Interrogatory No. 25

Bonnie Tseng has been responsible for accounting of expenditures relating to business operations.

Interrogatory No. 26

There has not been any known confusion between BEAUTV and the source of products and services provided under any other trademark, including but not limited to Opposer's Marks.

Interrogatory No. 27

Bonnie Tseng searched prior to 1999 to determine whether BEAUTV designation was available for use and registration.

Interrogatory No. 28

Searches of the US Patent and Trademark office records, and business entities were searched to positively determine availability of the specific combination of letters comprising the BEAUTV designation prior to designation application and internet based communications.

Interrogatory No. 29

Opposer's Marks were discovered after Opposer's objection was filed, as original BEAUTV trademark existed prior to Opposer's opposition without any previous attempts at opposition from Opposer or other entity.

Interrogatory No. 30

Only BEAUTV, INC. and officers have reserved rights to use the BEAUTV designation.

Interrogatory No. 31

Object as non-applicable and/or irrelevant.

Interrogatory No. 32

To date, plans for BEAUTV designation intent to use are the same in use since 1999, which has been continuously associated with the internet identity, including web site, it's content, and e-mail, and live person to person interactions, information gathering and presentation, as well as the specific corporate identity and business registration entity for BEAUTV, Inc.

Interrogatory No. 33

The BEAUTV Designation has been in continuous use since 1999 in the aforementioned manner, as evidenced by consistent annual fees paid for registration of business entity and internet related fees.

Interrogatory No. 34

Object as interrogatory is unreasonable and unnecessary request to reveal unrelated information that may disclose Applicant's concepts and methods to unfairly benefit Opposer in both future business and litigation against Applicant. Any existing plans for expansion were not made with any knowledge of Opposer's current or future business practices, or any intent to harm Opposer.

Interrogatory No. 35

BEAUTV.COM is the only web site that has been registered for BEAUTV, Inc.

Interrogatory No. 36

Object as non-applicable and/or irrelevant.

Interrogatory No. 37

Object as non-applicable and/or irrelevant.

Interrogatory No. 38

Object as non-applicable and/or irrelevant.

Interrogatory No. 39

This dispute has been discussed with USPTO Trademark Trial and Appeal Board employees who answer the phone lines for general questions regarding procedures, the Opposer's representative Attorney Aaron Silverstein, and in very non-specific or leading dialogue, Anne Linehan, USPTO Interlocutory Attorney.

Interrogatory No. 40

All of Opposer's marks were filed years after BEAUTV designation was granted in 2002.

Interrogatory No. 41

All of Opposer's marks were filed years after BEAUTV designation was granted in 2002. To date, there has been no evidence provided that use of Opposer's marks pre-dated use of BEAUTV designation. Additionally, there has not been any party's stated confusion with Opposers marks whatsoever.

Interrogatory No. 42

There have been no statements of opinions in this proceeding.

Interrogatory No. 43

Object as non-applicable and/or irrelevant.

Interrogatory No. 44

Object as non-applicable and/or irrelevant.

Interrogatory No. 43

Bonnie Tseng has solely participated in the responses to these interrogatories.

Dated December 11, 2011

BeauTV, Inc.



Bonnie Tseng, BeauTV, Inc.
3020 LaVista Ct.
Decatur, GA 30033
beautv@mindspring.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Response to OPPOSER'S FIRST SET OF INTERROGATORIES was served via pre-paid Fed Ex on ~~October~~ 15, 2011, to:

December

United Global Media Group, Inc.

c/o Aaron Silverstein

Saunders & Silverstein LLP

14 Cedar St., Suite 224

Amesbury, MA 01913-1831

asilverstein@massiplaw.com

A handwritten signature in black ink, appearing to read "Bonnie Tseng", written over a horizontal line.

Bonnie Tseng, BeauTV, Inc.

EXHIBIT D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85155593

Filed: October 19, 2010

Mark: BEAUTV

Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.

Opposer,

v.

BONNIE TSENG, BEAUTV, INC.

Applicant

Opposition No. 91200786

APPLICANT'S RESPONSE TO OPPOSER'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS

The following are answers to requests for production of documents and things. Copies of non-opposed documents as follows will be submitted via a combination of electronic and hard copy.

Request No. 1

To be submitted.

Request No. 2

Refer to Opposer's initial Opposition Filing as the manner in which Applicant first learned of Opposer's Marks and Opposer's use of Opposer's Marks

Request No. 3

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 4

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 5

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 6

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition and no exact match that would conflict with rights of any person.

Request No. 7

Object on the basis that BEAUTV has not sold products or services for profit.

Request No. 8

Designation has been presented on web pages, e-mail addresses, and BEAUTV, Inc. stationery.

Request No. 9

Object on the basis that all designs for materials bearing BEAUTV designation were self-created and self-manufactured.

Request No. 10

Object due to any promotional endeavors being verbal communications to targeted audiences which were inconclusive to sales or profit from such activities.

Request No. 11

Object as non-applicable and/or irrelevant.

Request No. 12

Object as non-applicable and/or irrelevant.

Request No. 13

Promotional expenses are comprised only of internet related fees for hosting services for BEAUTV web site.

Request No. 14

Object as excessive information request.

Request No. 15

Object as non-applicable and/or irrelevant.

Request No. 16

Object as non-applicable and/or irrelevant.

Request No. 17

Object as non-applicable and/or irrelevant because all design work done in-house.

Request No. 18

Object as non-applicable.

Request No. 19

Object as request is unreasonable and unnecessary request to reveal unrelated information that may disclose Applicant's concepts and methods to unfairly benefit Opposer in both future business and litigation against Applicant.

Request No. 20

There has been no communications between Applicant and Opposer other than Opposer's representative, Aaron Silverstein initially contacting Applicant just prior to initiating Opposition, serving papers related to Opposition, and one phone discovery conference dated 11/2/11.

Request No. 21

Business entity registration records will be submitted.

Request No. 22

Object as non-applicable. There has been no third party use or agreements.

Request No. 23

Object as non-applicable. There have been no previous third party objections.

Request No. 24

Object as non-applicable excessive information request.

Request No. 25

Object as non-applicable.

Request No. 26

Object as non-applicable.

Request No. 27

Object as non-applicable.

Request No. 28

Object as non-applicable.

Request No. 29

Object as non-applicable.

Request No. 30

Object as non-applicable.

Request No. 31

Object as non-applicable.

Request No. 32

Object as non-applicable and excessive information request.

Request No. 33

Object as non-applicable.

Request No. 34

Object as non-applicable. The only domain name owned by BEAUTV, INC. is BEAUTV.COM.

Request No. 35

Object as all relevant documents for U.S. Trademark Application Serial No. 85155593 are public record.

Request No. 36

Object as non-applicable due to preexisting Trademark registered as BEAUTV in 2002.

Request No. 37

Object as non-applicable.

Dated December 11, 2011

BeauTV, Inc.



Bonnie Tseng, BeauTV, Inc.
3020 LaVista Ct.
Decatur, GA 30033
beautv@mindspring.com

CERTIFICATE OF SERVICE

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~~October~~ 15, 2011, to:
December

United Global Media Group, Inc.


c/o Aaron Silverstein

Saunders & Silverstein LLP

14 Cedar St., Suite 224

Amesbury, MA 01913-1831

asilverstein@massiplaw.com

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Bonnie Tseng, BeauTV, Inc.

EXHIBIT E

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/155593
Filed: October 19, 2010
Mark: BEAUTV
Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.,

Opposer,

v.

BONNIE TSENG,

Applicant.

Opposition No. 91200786

ASSEMBLED FIRST SET OF INTERROGATORIES WITH RESPONSES

For the convenience of the Board, Opposer United Global Media Group, Inc. (“Opposer”) assembled the present document setting forth the First Set of Interrogatories with the responses of applicant Bonne Tseng (“Applicant”).

DEFINITIONS

1. “Opposer” means United Global Media Group, Inc.
2. “Applicant” means Bonnie Tseng, including her employees, agents, representatives, predecessors or successors in interest, anyone acting on her behalf or at her request, including her attorneys, consultants, expert witnesses, or any other individuals employed in any way by Applicant, in connection with any matter concerning or alleged in Opposer’s Notice of Opposition, and Applicant’s Answer. This definition is not intended to impose discovery obligations beyond those authorized by the Federal Rules of Civil Procedure.
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7. “Applicant’s Designation” means Applicant’s BEAUTV designation which is the subject of U.S. Trademark Application Serial No. 85155593; the application that is the subject of Opposer’s Notice of Opposition.

8. The term “Opposer’s Marks” means, individually and collectively, all marks upon which Opposer bases its claims in the Notice of Opposition, including without limitation the marks that are the subject of U.S. Trademark Registration Nos. 3688141, 3086867, 3451561, 3741286, and 3936977; and U.S. Trademark Application Serial Nos. 85289521, and 85045748.

9. The term “documents” shall mean both “documents” and “things,” as those terms are defined in Federal Rule of Civil Procedure 34, and includes any and all written, recorded, printed, or graphic matter, however produced or reproduced, of any kind and description, including but not limited to communications, correspondence, letters, notes, press releases, interoffice and intraoffice communications, telephone calls, emails, instant messages, electronic chat logs, memoranda of meetings, reports, directives, inter-company communications, diaries, logs, summaries, contracts, licenses, ledgers, books of account, vouchers, checks, invoices, charge slips, receipts, freight bills, working papers, drawings, sketches, photographs, models, and writings of every kind or description, tape recordings, computer printouts, magnetic cards,

microfilm, microfiches, data, computer files, or other information stored electronically or mechanically or by any other means, including both originals and copies. A draft or non-identical copy is a separate document within the meaning of this term.

10. The term “communication” means any document or tangible thing, correspondence, oral statement, meeting or conference, formal or informal, at any time or place and under any circumstance whatsoever, whereby information of any nature was stated, written, disclosed, transferred, exchanged, recorded, or in any manner transmitted or transferred.

11. The terms “bearing” and “under” mean bearing, containing, reflecting, or used on or in connection with.

12. The term “all” as used herein shall also mean “any and all.”

13. The terms “and” and “or” as used herein shall be construed conjunctively or disjunctively to bring within the scope of these requests any and all information which might otherwise be construed as outside their scope.

14. The terms “person” or “persons” as used herein shall mean any legal entity including natural persons, corporations, partnerships, estates, or any other kind of legal entity.

15. The term “request” means requests, requests for production, requests for admissions, and interrogatories.

16. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The use of the masculine form of a pronoun also includes within its meaning the feminine form of the pronoun so used, and vice versa; and the use of any tense of any verb also includes within its meaning all other tenses of the verb so used.

17. The term “identify” as used herein means:

a. in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last known such information;

b. in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Applicant's response; and

c. in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender; (ii) its general type (e.g., letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any; (iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

18. The term "state the basis" as used herein means:

a. identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of a party's

information regarding the alleged facts or legal conclusions referred to by the interrogatory;

b. identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory;

c. state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place, and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and

d. state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.

INSTRUCTIONS

1. With respect to each request, Applicant must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. If an objection is raised, all grounds for the objection must be stated with specificity.

2. The party upon whom these interrogatories have been served shall serve a copy of the responses, and objections if any, within 30 days after service of such interrogatories.

3. These discovery requests seek responses as of the date on which they are served. However, Applicant's duty to respond to the requests is continuing such that Opposer must timely supplement its responses by supplying later-acquired information or materials as required by Federal Rule of Civil Procedure 26.

4. Opposer serves these requests for purposes of discovery as contemplated under the Federal Rules of Civil Procedure, and Applicant (a) reserves all objections to the introduction of evidence on subjects covered by these discovery requests and (b) does not admit the relevance or materiality of any of the matters covered by these requests.

5. If Applicant withholds information otherwise responsive to a request by claiming that it is privileged or subject to work product protection as trial preparation material or otherwise, Applicant must make the claim expressly. Applicant must also describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing the privileged or protected information itself, will enable other parties to assess the applicability of your asserted privilege or protection.

6. Electronically stored documents shall be produced in searchable Adobe PDF format created directly from the native electronic document.

7. Paper documents shall be produced as multi-page, searchable Adobe PDF files.

8. Applicant shall base its responses to these requests on its use of Applicant's Designation in the United States.

INTERROGATORIES

Interrogatory No. 1.

Identify each person with knowledge of the facts set forth in the Opposition and Applicant's Answer, or with knowledge of any facts pertinent to this action, and state the facts or subject matter of each such person's knowledge.

Applicant's Response:

Bonnie Tseng is the inventor of the BEAUTV designation and person most knowledgeable regarding BEAUTV and BEAUTV, INC.

Interrogatory No. 2.

Identify and describe each product sold, and each service rendered, by Applicant under Applicant's Designation.

Applicant's Response:

Products and services have not been sold.

Interrogatory No. 3.

State the exact date(s) on which Applicant will rely as to when use of Applicant's Designation commenced in connection with the sale or distribution of each item of goods and each service specified in answer to Interrogatory No. 2.

Applicant Response:

Initial Trademark was granted in 1999.

Interrogatory No. 4.

State the date on which Applicant first used Applicant's Designation in commerce for each good and service stated in answer to Interrogatory No. 2.

Applicant Response:

Applicant first used designation for specific communications in 1999.

Interrogatory No. 5.

State the basis for the dates identified in answer to Interrogatory Nos. 3 and 4.

Applicant Response:

Applicant began providing information and expertise about beauty in 1996 and prior as a beauty expert, and invented BEAUTV designation and associated web site and e-mail as a specific identity to publish and promote original works of a specific style, and provide expertise and gather information in various formats (original imagery, person to person interaction, verbal advice on beauty products) pertaining to the subject of beauty.

Interrogatory No. 6.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish Applicant's Designation was in use in connection with providing information about beauty in commerce on October 19, 2010.

Applicant Response:

Object on the basis of preexisting trademark from 1999. Web site and e-mail service were established and consistently available to public since 1999 with no opposition from any party including Opposer. Invoices for all related internet services as well as business incorporation registry in the state of Georgia serve to verify continuous and consistent service availability to the public from at least 1999 to present.

Interrogatory No. 7.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish Applicant's Designation was in use in connection with providing information about beauty in commerce on January 1, 1999.

Applicant Response:

Press releases from the beauty industry were requested for subsequent writings and publishing to BEAUTV web site.

Interrogatory No. 8.

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever which Applicant will rely upon to establish the date(s) specified in answer to Interrogatory Nos. 3 and 4.

Applicant Response:

Object on the basis of preexisting trademark from 1999. Corporate identity, web site and e-mail service were established and consistently available to public since 1999 and prior with no opposition from any party including Opposer. Invoices or registration confirmations for related internet services serve to verify continuous and consistent service from at least 1999 to present.

Interrogatory No. 9.

With respect to the first use(s) of Applicant's Designation in connection with the sale, distribution, or rendering of each item of goods or services identified in Interrogatory No. 2, state:

- (a) The manner in which Applicant's Designation was used, e.g., by affixation to containers, or labels, etc.;
- (b) If Applicant's Designation was printed on containers for the product or on labels, the name and address of the person(s) or organization which printed the term;
- (c) Whether the product or service was sold or rendered;
- (d) Whether the product or service was distributed free of charge;
- (e) The name and address of the person(s) or organization to whom the product or service was sold, distributed, or rendered;
- (f) Whether Applicant itself manufactured each of the items sold or distributed under Applicant's Designation;
- (g) Whether the sale, distribution, or rendering of each item of goods or services under Applicant's Designation has been continuous from the date specified in Interrogatory Nos. 3 and 4 to the present;
- (h) If the answer to Interrogatory 9(g) is in the affirmative, whether the circumstances described in answer to Interrogatories 9(a), 9(b), 9(c), 9(d), 9(f) prevailed throughout the period identified in Interrogatory 9(g);

(i) If the circumstances described in answer to Interrogatories 9(a), 9(b), 9(c), 9(d), and 9(f) did not prevail throughout the period identified in Interrogatory 9(g), state how they changed, providing specific dates and names wherever requested; and

(j) If the answer to Interrogatory 9(g) is in the negative, state the periods of time during which Applicant's Designation was not used by Applicant in connection with the sale, distribution, or rendering of any of the items of goods or services.

Applicant Response:

- a) BEAUTV has been used consistently since 1999 as both a business corporate identity for BEAUTV, INC. and associated internet identity BEAUTV.COM for the purpose of providing information about beauty.
- b) Object as non-applicable and/or irrelevant.
- c) Object as non-applicable and/or irrelevant.
- d) Object as non-applicable and/or irrelevant.
- e) Object as non-applicable and/or irrelevant.
- f) Object as non-applicable and/or irrelevant.
- g) Object as non-applicable and/or irrelevant.
- h) Object as non-applicable and/or irrelevant.
- i) Object as non-applicable and/or irrelevant.
- j) Object as non-applicable and/or irrelevant.

Interrogatory No. 10.

State why Applicant selected Applicant's Designation as a designation for each item of goods or category of services specified in application Serial No. 85155593, and the circumstances by which Applicant selected such designation.

Applicant's Response:

The BEAUTV designation was invented prior to 1999 specifically for use as the business name and corporate identity, not limited to internet identity, for BEAUTV, Inc., a provider of beauty related information.

Interrogatory No. 11.

Identify by name, address, and firm or corporate affiliation the person(s) who was primarily responsible for selecting Applicant's Designation as a designation.

Applicant's Response:

Bonnie Tseng created and registered the word BEAUTV as the designation for BEAUTV, Inc.

Interrogatory No. 12.

Identify all documents, including but not limited to search reports, market surveys, interoffice memoranda, relating to the adoption of Applicant's Designation as a designation for each item of goods or category of services specified in Applicant's answer to Interrogatory No. 2.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 13.

Identify all channels of trade through which Applicant sells goods or render services bearing Applicant's Designation.

Applicant's Response:

BEAUTV is the designation associated with the web site and e-mail as well as the specific corporate identity for BEAUTV, Inc., which publishes and promotes original works and provides and gathers information in various formats (original imagery, person to person interaction, verbal advice on beauty products) pertaining to the subject of beauty.

Interrogatory No. 14.

Identify and describe the channels of distribution in the United States of each item of goods and services distributed, sold, or rendered under Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 15.

Identify all purchasers by class (e.g. retailers, general public) of each item of goods and service distributed, sold, or rendered under Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 16.

Identify all businesses or individuals that have purchased goods sold or services rendered in connection with Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 17.

List all geographical areas by city and state in which Applicant sells each item of goods or renders services under Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 18.

List all radio and/or TV stations in the United States where Applicant has advertised each good or service rendered in connection with Applicant's Designation and the dates thereof.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 19.

Identify all media outlets, including but not limited to newspapers, magazines, trade journals, radio or television stations, and websites, through which Applicant has advertised each

good or service offered in connection with Applicant's Designation and the publication dates thereof.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 20.

State the amount expended by year in the United States in the advertisement of each item or category of goods or services used in connection with Application Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 21.

Identify by name and address all person(s) or organization(s) who have been responsible for advertising the goods sold or services rendered under Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 22.

State the date on which Applicant first advertised any goods or services under Applicant's Designation and identify such goods or services.

Applicant's Response:

Web site BEAUTV.COM was established in 1999.

Interrogatory No. 23.

State whether Applicant's Designation has ever been used in connection with television and radio production and broadcasting, including whether Applicant has ever used or printed the designation, or authorized the use or printing of the designation via the internet.

Applicant's Response:

To date, BEAUTV designation has not been used in connection with television and radio production and broadcasting. BEAUTV designation has been used since 1999 on the internet, specifically through the BEAUTV web site.

Interrogatory No. 24.

For each calendar year since commencement of use of Applicant's Designation, state the amount of sales by state by Applicant in the United States of each item of goods or services identified in response to Interrogatory No. 2.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 25.

Identify each person or company who has ever been responsible for bookkeeping or accounting with respect to all goods sold or services rendered under Applicant's Designation.

Applicant's Response:

Bonnie Tseng has been responsible for accounting of expenditures relating to business operations.

Interrogatory No. 26.

Describe all instances of actual confusion known to Applicant between the source of products or services sold or rendered under Applicant's Designation and the source of goods sold or services provided under any other trademark, including without limitation Opposer's Marks.

Applicant's Response:

There has not been any known confusion between BEAUTV and the source of products and services provided under any other trademark, including but not limited to Opposer's Marks.

Interrogatory No. 27.

Identify every person who conducted any searches to determine whether Applicant's Designation was available for use or registration.

Applicant's Response:

Bonnie Tseng searched prior to 1999 to determine whether BEAUTV designation was available for use and registration.

Interrogatory No. 28.

Describe any searches that Applicant conducted to determine whether Applicant's Designation was available to use or registration prior to or after commencing use of Applicant's Designation.

Applicant's Response:

Searches of the US Patent and Trademark office records, and business entities were searched to positively determine availability of the specific combination of letters comprising the BEAUTV designation prior to designation application and internet based communications.

Interrogatory No. 29.

Describe the circumstances surrounding when Applicant's first become aware of Opposer's Marks.

Applicant's Response:

Opposer's Marks were discovered after Opposer's objection was filed, as original BEAUTV trademark existed prior to Opposer's opposition without any previous attempts at opposition from Opposer or other entity.

Interrogatory No. 30.

Identify everyone who has a license to use Applicant's Designation.

Applicant's Response:

Only BEAUTV, INC. and officers have reserved rights to use the BEAUTV designation.

Interrogatory No. 31.

Explain Applicant's order processing, fulfillment, and payment process for each of Applicant's channels of trade.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 32.

Identify all goods or services on which Applicant has a *bona fide* intent to use Applicant's Designation in the future.

Applicant's Response:

To date, plans for BEAUTV designation intent to use are the same in use since 1999, which has been continuously associated with the internet identity, including web site, it's content, and e-mail, and live person to person interactions, information gathering and presentation, as well as the specific corporate identity and business registration entity for BEAUTV, Inc.

Interrogatory No. 33.

State all facts that support Applicant's contention that Applicant has a *bona fide* intent to use Applicant's Designation on every good or service identified in answer to the preceding interrogatory.

Applicant's Response:

The BEAUTV Designation has been in continuous use since 1999 in the aforementioned manner, as evidenced by consistent annual fees paid for registration of business entity and internet related fees.

Interrogatory No. 34.

Describe Applicant's plans to expand the sale of goods, or rendering of services, under Applicant's Designation.

Applicant's Response:

Object as interrogatory is unreasonable and unnecessary request to reveal unrelated information that may disclose Applicant's concepts and methods to unfairly benefit Opposer in both future business and litigation against Applicant. Any existing plans for expansion were not made with any knowledge of Opposer's current or future business practices, or any intent to harm Opposer.

Interrogatory No. 35.

Identify every internet website through which Applicant has marketed goods or services under Applicant's Designation.

Applicant's Response:

BEAUTV.COM is the only web site that has been registered for BEAUTV, Inc.

Interrogatory No. 36.

For each website identified in response to Interrogatory No. 29, state the total number of unique visitors, by state, for each year since Applicant commenced use of Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 37.

Identify every wholesaler and retail store through which Applicant has sold goods or offered services in connection with Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 38.

Identify every instance in which Applicant's Designation has been mentioned in any publication.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 39.

Identify everyone with whom you have discussed the dispute underlying this proceeding.

Applicant's Response:

This dispute has been discussed with USPTO Trademark Trial and Appeal Board employees who answer the phone lines for general questions regarding procedures, the Opposer's representative Attorney Aaron Silverstein, and in very non-specific or leading dialogue, Anne Linehan, USPTO Interlocutory Attorney.

Interrogatory No. 40.

State the basis for Applicant's defense that the Opposer's Marks fail to pre-date the application filing of Applicant's Designation.

Applicant's Response:

All of Opposer's marks were filed years after BEAUTV designation was granted in 2002.

Interrogatory No. 41.

State the basis for Applicant's defense that use of the Opposer's Marks fail to pre-date the use of Applicant's Designation.

Applicant's Response:

All of Opposer's marks were filed years after BEAUTV designation was granted in 2002. To date, there has been no evidence provided that use of Opposer's marks pre-dated use of BEAUTV designation. Additionally, there has not been any party's stated confusion with Opposers marks whatsoever.

Interrogatory No. 42.

If Applicant has obtained any statements or opinions regarding any of the issues in this proceeding, identify the person who made each statement or opinion, provide the date Applicant received each statement or opinion, state whether it was oral or in writing, and state the general topic of the statement or opinion.

Applicant's Response:

There have been no statements of opinions in this proceeding.

Interrogatory No. 43.

Identify any and all documents responsive to the foregoing interrogatories which are lost and identify the date(s) the loss was first discovered, the person(s) who first discovered the loss and the person(s) most knowledgeable about the contents of such lost documents.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 44.

How many hours per month does Applicant spend running the business of selling goods or rendering services bearing Applicant's Designation?

Applicant's Response:

Object as non-applicable and/or irrelevant.

Interrogatory No. 45.

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state specifically, with reference to interrogatory numbers, the area of participation of each such person.

Applicant's Response:

Bonnie Tseng has solely participated in the responses to these interrogatories.

EXHIBIT F

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/155593
Filed: October 19, 2010
Mark: BEAUTV
Published for Opposition: March 22, 2011

UNITED GLOBAL MEDIA GROUP, INC.,

Opposer,

v.

BONNIE TSENG,

Applicant.

Opposition No. 91200786

**ASSEMBLED FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS WITH RESPONSES**

For the convenience of the Board, Opposer United Global Media Group, Inc. (“Opposer”) assembled the present document setting forth the First Set of Interrogatories with the responses of applicant Bonnie Tseng (“Applicant”).

DEFINITIONS

1. “Opposer” means United Global Media Group, Inc.
2. “Applicant” means Bonnie Tseng, including her employees, agents, representatives, predecessors or successors in interest, anyone acting on her behalf or at her request, including her attorneys, consultants, expert witnesses, or any other individuals employed in any way by Applicant, in connection with any matter concerning or alleged in Opposer’s Notice of Opposition, and Applicant’s Answer. This definition is not intended to impose discovery obligations beyond those authorized by the Federal Rules of Civil Procedure.
3. The pronouns “you,” “your,” or “yours” as used herein shall be synonymous with the term “Applicant.”

4. The terms “confusion” and “likelihood of confusion,” in addition to their usual and customary meaning, shall have the meanings ascribed to them by the Trademark Act, Section 2(d), 15 U.S.C. § 1052(d).

5. The terms “relating to,” “relate to,” or “relates to” mean evidencing, constituting, referring to, comprising, illustrating, recording, memorializing, concerning, or discussing.

6. The phrase “use in commerce” incorporates the definition set forth in 15 U.S.C. § 1127.

7. “Applicant’s Designation” means Applicant’s BEAUTV designation which is the subject of U.S. Trademark Application Serial No. 85155593; the application that is the subject of Opposer’s Notice of Opposition.

8. The term “Opposer’s Marks” means, individually and collectively, all marks upon which Opposer bases its claims in the Notice of Opposition, including without limitation the marks that are the subject of U.S. Trademark Registration Nos. 3688141, 3086867, 3451561, 3741286, and 3936977; and U.S. Trademark Application Serial Nos. 85289521, and 85045748.

9. The term “documents” shall mean both “documents” and “things,” as those terms are defined in Federal Rule of Civil Procedure 34, and includes any and all written, recorded, printed, or graphic matter, however produced or reproduced, of any kind and description, including but not limited to communications, correspondence, letters, notes, press releases, interoffice and intraoffice communications, telephone calls, emails, instant messages, electronic chat logs, memoranda of meetings, reports, directives, inter-company communications, diaries, logs, summaries, contracts, licenses, ledgers, books of account, vouchers, checks, invoices, charge slips, receipts, freight bills, working papers, drawings, sketches, photographs, models, and writings of every kind or description, tape recordings, computer printouts, magnetic cards,

microfilm, microfiches, data, computer files, or other information stored electronically or mechanically or by any other means, including both originals and copies. A draft or non-identical copy is a separate document within the meaning of this term.

10. The term “communication” means any document or tangible thing, correspondence, oral statement, meeting or conference, formal or informal, at any time or place and under any circumstance whatsoever, whereby information of any nature was stated, written, disclosed, transferred, exchanged, recorded, or in any manner transmitted or transferred.

11. The terms “bearing” and “under” mean bearing, containing, reflecting, or used on or in connection with.

12. The phrase “documents sufficient to show” shall mean enough documents to adequately, accurately, and completely address the subject matter of the request.

13. The term “all” as used herein shall also mean “any and all.”

14. The terms “and” and “or” as used herein shall be construed conjunctively or disjunctively to bring within the scope of these requests any and all information which might otherwise be construed as outside their scope.

15. The terms “person” or “persons” as used herein shall mean any legal entity including natural persons, corporations, partnerships, estates, or any other kind of legal entity.

16. The term “request” means requests, requests for production, requests for admissions, and interrogatories.

17. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The use of the masculine form of a pronoun also includes within its meaning the feminine form of the pronoun

so used, and vice versa; and the use of any tense of any verb also includes within its meaning all other tenses of the verb so used.

INSTRUCTIONS

1. If any document is withheld under a claim of attorney-client privilege, the attorney work-product doctrine, or any other privilege, provide the following information:

(a) identifying information for each document including: the date of the document (as it appears on the document; or if no date appears thereon, so state and give the date or approximate date on which the document was prepared), number of pages, the type of information it contains (e.g., text, graphs, statistics), the title of the document, the type of document (e.g., memorandum, letter, brief, transcript, report, drawing), the author(s), the addressee(s), and the person(s) to whom the document or a copy thereof was sent. In addition to providing these names, identify the positions or titles of all persons mentioned in the document whether or not they are attorney(s); and

(b) a specification of which privilege is claimed, and, where more than one privilege is asserted for a document, the portions of that document to which each specified privilege applies.

2. The following are continuing requests, so as to require further and supplemental production promptly if Applicant receives, locates, or generates additional documents called for herein between the time of original production and the entry of judgment in this proceeding.

3. Applicant shall produce responsive documents within its possession, custody, or control and within the possession, custody, or control of its agents, attorneys or representatives.

4. If a document requested was, but no longer is, in the possession, custody, or control of Applicant, explain whether the document is missing or lost, has been destroyed, has

been transferred to another person, or has been disposed of in some other manner. Also, explain the manner of such disposition, give the date or approximate date of such disposition, and provide the name and last known residence and business address of each person with knowledge of the circumstances surrounding such disposition.

5. Electronically stored documents shall be produced in searchable Adobe PDF format created directly from the native electronic document.

6. Paper documents shall be produced as multi-page, searchable Adobe PDF files.

7. Pursuant to Rule 34 of the Federal Rules of Civil Procedure, all documents produced for inspection shall be produced as they are kept in the usual course of business, and each document so produce shall be organized in a manner that clearly corresponds to the Request set forth herein.

8. Applicant shall base its responses to these requests on its use of Applicant's Designation in the United States.

DOCUMENTS REQUESTED

Request No. 1.

All documents that Applicant was required to identify in response to Opposer's First Set of Interrogatories to Applicant, or from which information was obtained in preparing the responses to the First Set of Interrogatories.

Applicant's Response:

To be submitted.

Request No. 2.

All documents relating to the date(s) and manner in which Applicant first learned of Opposer's Marks and Opposer's use of Opposer's Marks.

Applicant's Response:

Refer to Opposer's initial Opposition Filing as the manner in which Applicant first learned of Opposer's Marks and Opposer's use of Opposer's Marks

Request No. 3.

All documents relating to the selection, availability, adoption, creation, design, proposal to use, intent to use, attempt to register, or registration of Applicant's Designation, including without limitation, any minutes or notes from any meetings in which such topics were discussed.

Applicant's Response:

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 4.

All documents or other material relating to the use of Applicant's Designation in connection with providing information about beauty in commerce on October 19, 2010.

Applicant's Response:

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 5.

All documents or other materials relating to the use of the Applicant's Designation in connection with providing information about beauty in commerce on January 1, 1999.

Applicant's Response:

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition.

Request No. 6.

All documents relating to any search or evaluation of any records conducted by or on behalf of Applicant to determine whether other persons had used or sought registration of any word or phrase similar to Applicant's Designation, or whether Applicant's use of Applicant's Designation would conflict with the rights of any person.

Applicant's Response:

Object due to preexisting BEAUTV Trademark granted to same Applicant in 2002 with no opposition and no exact match that would conflict with rights of any person.

Request No. 7.

Representative samples of the products sold, or services rendered, in connection with Applicant's Designation, including evidence of the dates of such samples.

Applicant's Response:

Object on the basis that BEAUTV has not sold products or services for profit.

Request No. 8.

All documents or other materials on which Applicant's Designation has been or is intended to be displayed, including without limitation, sample products, packaging, cartons, labels, product merchandizing, web pages, advertisements, brochures, sales literature, signs, handbills, stationery, business cards, decals, badges, catalogs, computer screens, videos, or other materials.

Applicant's Response:

Designation has been presented on web pages, e-mail addresses, and BEAUTV, Inc. stationery.

Request No. 9.

All documents relating to the creation, design, development, printing or manufacture of any materials on which Applicant's Designation has ever been or is intended to be displayed, including, without limitation, any correspondence, purchase orders, records of payment or invoices sent to or received from any person involved in such creation, design, development, or manufacture.

Applicant's Response:

Object on the basis that all designs for materials bearing BEAUTV designation were self-created and self-manufactured.

Request No. 10.

Representative samples of documents or other materials which identify, explain, or describe each of the products or services ever offered, rendered, or sold or intended for sale under Applicant's Designation.

Applicant's Response:

Object due to any promotional endeavors being verbal communications to targeted audiences which were inconclusive to sales or profit from such activities.

Request No. 11.

All documents relating to the date and manner in which Applicant's Designation was first used in connection with the sale of each type of product or service offered for sale by Applicant.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Request No. 12.

All sales reports, financial statements, or other documents relating to the revenues Applicant has derived from the sale of each product, or rendering of each service, offered under Applicant's Designation.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Request No. 13.

All documents relating to the nature and amount of any and all advertising, development, or promotional expenditures incurred in connection with each product or service offered or planned to be offered under Applicant's Designation.

Applicant's Response:

Promotional expenses are comprised only of internet related fees for hosting services for BEAUTV web site.

Request No. 14.

All documents relating to any use of Applicant's Designation in the field of providing information about beauty.

Applicant's Response:

Object as excessive information request.

Request No. 15.

Documents sufficient to show Applicant's total annual revenue from the sale of goods bearing Applicant's Designation, or services rendered under Applicant's Designation, for each year the designation has been in use.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Request No. 16.

Documents sufficient to show Applicant's total annual advertising and marketing expenditures in connection with goods bearing Applicants Designation, or services rendered under Applicant's Designation, for each year in which the designation has been in use.

Applicant's Response:

Object as non-applicable and/or irrelevant.

Request No. 17.

All documents relating to Applicant's Designation that were sent to or received from any advertising agency, public relations or media firm, or design firm.

Applicant's Response:

Object as non-applicable and/or irrelevant because all design work done in-house.

Request No. 18.

Representative samples of all advertisements or promotional materials relating to Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 19.

All documents relating to marketing plans, media plans, business plans or other strategic planning documents relating to Applicant's Designation, or products or services offered, sold, rendered, or intended for sale under Applicant's Designation.

Applicant's Response:

Object as request is unreasonable and unnecessary request to reveal unrelated information that may disclose Applicant's concepts and methods to unfairly benefit Opposer in both future business and litigation against Applicant.

Request No. 20.

All documents relating to any meetings, correspondence, telephone calls, electronic communications, or other communications between Applicant and Opposer.

Applicant's Response:

There has been no communications between Applicant and Opposer other than Opposer's representative, Aaron Silverstein initially contacting Applicant just prior to initiating Opposition, serving papers related to Opposition, and one phone discovery conference dated 11/2/11.

Request No. 21.

All documents relating to Applicant's Designation that Applicant has filed with or received from any federal, state or local governmental office or regulatory agency, including without limitation, all documents filed or received in connection with any application to register, or any sale, purchase, assignment, or other conveyance of Applicant's Designation.

Applicant's Response:

Business entity registration records will be submitted.

Request No. 22.

All documents relating to any third party use, registration or application to register Applicant's Designation, Opposer's Marks, or any trademark which includes the term BEAUTV, or any similar word or phrase, in any language.

Applicant's Response:

Object as non-applicable. There has been no third party use or agreements.

Request No. 23.

All documents relating to any objections made or considered by Applicant concerning use or registration of any mark containing Applicant's Designation, or any similar word or phrase, by any third party.

Applicant's Response:

Object as non-applicable. There have been no previous third party objections.

Request No. 24.

All documents relating to any press releases, newspaper articles, blogs, website, or other publications which mention Applicant's Designation or any of the products or services sold or offered under Applicant's Designation.

Applicant's Response:

Object as non-applicable excessive information request.

Request No. 25.

All documents relating to the target audience for all advertisements or marketing materials containing Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 26.

All documents relating to the classes or types of purchasers to whom products have been sold, or services have been rendered, or are planned to be sold or rendered, under Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 27.

All documents relating to the methods of sale or channels of trade or distribution, through which products or services have been sold or offered, or are planned to be sold or offered, under Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 28.

All documents relating to any survey, poll, or other research regarding Applicant's Designation, or the products or services offered, or planned to be offered, under Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 29.

All documents relating to the commercial impression created by Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 30.

All documents relating to any communications between Applicant and any other person regarding Applicant's Designation, or this dispute.

Applicant's Response:

Object as non-applicable.

Request No. 31.

Copies of all licenses, assignments, distributorship, franchise, or other agreements related to Applicant's Designation.

Applicant's Response:

Object as non-applicable.

Request No. 32.

Documents sufficient to identify all prospective customers of products or services offered under Applicant's Designation to whom promotional materials have been sent, including the addresses of all such persons.

Applicant's Response:

Object as non-applicable excessive information request.

Request No. 33.

All documents relating to the date and manner in which Applicant's Designation was last used in connection with the sale of each type of product, or the rendering of each type of service, offered for sale.

Applicant's Response:

Object as non-applicable.

Request No. 34.

All documents referring to any domain names ever owned by Applicant that contain the term BEAUTV, the word BEAUTY, or variations thereof and/or are used or intended to be used

in connection with the sale or advertisement of products or services under Applicant's Designation, including without limitation all documents referring to such domain names.

Applicant's Response:

Object as non-applicable. The only domain name owned by BEAUTV, INC. is BEAUTV.COM.

Request No. 35.

All documents relating to the prosecution of U.S. Trademark Application Serial No. 85155593.

Applicant's Response:

Object as all relevant documents for U.S. Trademark Application Serial No. 85155593 are public record.

Request No. 36.

All documents relating to the selection of services set forth in U.S. Trademark Application Serial No. 85155593.

Applicant's Response:

Object as non-applicable due to preexisting Trademark registered as BEAUTV in 2002.

Request No. 37.

Documents sufficient to show all goods and services with which Applicant currently has actual use of Applicant's Designation.

Applicant's Response:RP

Object as non-applicable.